

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HARI P. KUNAMNENI,

No. C 08-5154 PJH

Plaintiff,

**ORDER RE DEFENDANT'S
ADMINISTRATIVE MOTION
TO CONTINUE CASE
MANAGEMENT CONFERENCE**

v.

CARLOS M. GUTIERREZ, SECRETARY
OF THE DEPARTMENT OF
COMMERCE,

Defendants.

On March 6, 2009, defendant, Carlos Gutierrez, Secretary of the Department of Commerce ("defendant"), filed an administrative motion pursuant to Civil Local Rule 7-11, seeking an order continuing the Case Management Conference currently set for March 26, 2009 to May 7, 2009, as well as the dates established in the "Order Setting Initial Case Management Conference and ADR Deadlines," filed in this case on November 12, 2008. Defendant's motion was granted on March 10, 2009.

Plaintiff, Hari Kunamneni ("plaintiff"), subsequently advised the court that he objects to this Order on the basis that he was not given an opportunity to respond to defendant's motion as permitted under Civil Local Rule 7-11(b). That rule requires that an opposition to an administrative motion be filed no later than the third day after the motion was filed. Civil L.R. 7-11(b). Defendant's motion was filed on March 6, 2009, meaning plaintiff's opposition was due on March 11, 2009.¹ However, because the court's Order granting defendant's motion was issued on March 10, 2009, before plaintiff's opposition was filed, the court

¹ Pursuant to Rule 6(a) of the Federal Rules of Civil Procedure, "[w]hen the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation."

1 acted prematurely. As such, the court will reconsider the propriety of its prior Order, taking
2 into consideration plaintiff's timely filed opposition. See Fed.R.Civ.P. 54(b) (An order that
3 resolves fewer than all of the claims among the parties "is subject to revision at any time
4 before the entry of judgment adjudicating all the claims and the rights and liabilities of all
5 the parties."); see also United States v. Martin, 226 F.3d 1042, 1049 (9th Cir. 2000) (district
6 courts have the authority to modify, alter or revoke non-final orders).

7 Having carefully considered the parties' papers, the court finds that plaintiff has not
8 presented any facts or legal authority to induce the court to reverse its prior decision.
9 Defendant has shown good cause to warrant a continuation of the Case Management
10 Conference. Accordingly, as set forth in the court's March 10, 2009 Order, the Case
11 Management Conference currently set for March 26 at 2:30 p.m. is continued to May 7,
12 2009, at 2:30 p.m. All dates established in the Order Setting Initial Case Management
13 Conference and ADR Deadlines are continued to correspond to the date of the rescheduled
14 Case Management Conference. Case Management Conference Statements shall be filed
15 no later than April 30, 2009.

16 **IT IS SO ORDERED.**

17 Dated: March 17, 2009



PHYLLIS J. HAMILTON
United States District Court